

COUNTY OF SACRAMENTO

DEPARTMENT OF FINANCE - AUDITOR-CONTROLLER DIVISION - INTERNAL AUDIT UNIT

INTERNAL AUDIT REPORT
457(b) and 401(a) PLAN REPORT
DEPARTMENT OF PERSONNEL SERVICES



Audit Committee Submittal Date: 08/06/2020

SUMMARY

Background

The County of Sacramento (County) Department of Personnel Services (DPS) requested the Department of Finance Auditor-Controller Division to perform a performance audit of the County 457(b) and 401(a) Plans (Benefit Plans) for compliance with the California Government Code Section 53212 and 53215 *et seq.*, Internal Revenue Services (IRS) regulations, the Benefit Plans Trust Documents, and Recordkeeping and Related Services Agreement between the County and Fidelity Workplace Services LLC, a Delaware Limited Liability Company (Agreement) for the period of July 1, 2018 to June 30, 2019.

Audit Objective

Verify whether compliance with the California Government Code Section 53212 and 53215 *et seq.*, IRS regulations, the Benefit Plans Trust Documents, and the Agreement managed by DPS.

Summary

DPS complied with applicable laws and regulations, the Benefit Plans Trust Documents, and the Agreement. However, we noted some internal control deficiencies related to the 457 (b) Plan Trust Document, service credit purchase rollover, revenue allowance and recordkeeping fees.

Department of Finance

Ben Lamera
Director



Auditor-Controller Division

Joyce Renison
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County of Sacramento

June 29, 2020

David Comerchero
Employee Benefits Manager
457 (b) and 401 (a) Plan Administrator
Department of Personnel Services
700 H Street, Ste. 4650
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We have audited County of Sacramento (County) Department of Personnel Services (DPS) management and oversight of the 457(b) and 401(a) Benefit Plans (Benefit Plans) for the period of July 1, 2018 to June 30, 2019.

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our audit was conducted to verify compliance at DPS over the California Government Code Section 53212 and 53215 *et seq.*, Internal Revenue Service (IRS) regulations, Benefit Plans Trust Documents, and Recordkeeping/Related Services Agreement (Agreement) between the County and Fidelity Workplace Services LLC, a Delaware Limited Liability Company (Fidelity) for the period of July 1, 2018 to June 30, 2019, and ensure the DPS has adequate internal control to manage and oversee the Benefit Plans.

Management is responsible for the design, implementation, and maintenance of effective internal control to ensure compliance with applicable laws and regulations, the Benefit Plans Trust Documents, and the Agreement.

The scope of our audit included DPS management and oversight of the Benefit Plans in accordance with applicable laws and regulations, Benefit Plans Trust Documents, and the Agreement for the period of July 1, 2018 to June 30, 2019.

The audit methodology utilized to conduct this performance audit included:

Regulatory and Contractual Requirements

- Reviewed laws and regulations, Benefit Plan Trust Documents, and the Agreement related to the Benefit Plans.

Based on our review, we noted some deficiencies related to the 457(b) Plan trust document as described in Finding #1 of Attachment I, *Current Findings and Recommendations*.

Internal Control Review

- Interviewed key staff/management involved in the Benefit Plans to gain an understanding of the County's responsibilities as it relates to the Benefit Plans.
- Reviewed DPS's written internal control policies and procedures related to the Benefit Plans, and tested key control activities.
- Reviewed DPS's procedures regarding the secure, accurate and timely transmission of relevant participant data, such as payroll data establishing eligibility, to determine whether all eligible covered employees have been properly included, whether accurate participant data was supplied to Fidelity, Record Keeper, and whether Fidelity utilized the data in a timely manner.

Based on our procedures performed, we noted some deficiencies related to service credit purchase rollover, revenue allowance and recordkeeping fees as described in Finding #2 and 3, respectively, of Attachment I, *Current Findings and Recommendations*.

Testing

- Tested a sample of contributions from the employee and employer to determine:
 - a. Fund transfers from employer were timely, secure, and posted promptly by cut off time by Fidelity.
 - b. Amounts received were properly recorded by Fidelity and disclosed in the participant's financial statement on record.
 - c. Any appropriate allowances have been made for uncollectable/forfeited amounts.
 - d. Employer and employees contribution payments were in accordance with plan provisions and transactions were properly recorded in the proper accounts, amounts and periods.
- Tested a sample of timing of initial contributions and contribution changes to ensure that the initial contributions did not take place in the same calendar month the participants entered into agreements to defer compensations and that the initial contributions were made on the date indicated by the participants.
- Tested a sample of purchases of Sacramento County Employees' Retirement System (SCERS) service credits using 457(b) and 457(b) Part-time, Seasonal and Temporary (PST) Plan rollovers to determine the payments were in accordance with SCERS and 457(b) documents and to ensure timely processing.

David Comerchero, Employee Benefits Manager/Plan Administrator
Department of Personnel Services
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- Reviewed participant election process (e.g., elected deferral rates) to verify that the appropriate payroll deductions occurred as elected by participant.

Based on our procedures performed, we noted some deficiencies related to service credit purchase rollover as described in Finding #2 of Attachment I, *Current Findings and Recommendations*.

Other

- Followed up on status of prior year audit findings and recommendations.

There were 11 findings for 457(b) and 5 findings for 401(a) during prior audit. 3 of 4 current findings were repeated from prior period report. See Attachment I, *Current Findings and Recommendations*, Attachment II, *Current Status of Prior Findings and Recommendations (457(b) Plan)*, and Attachment III, *Current Status of Prior Findings and Recommendations (401(a) Plan)*.

In connection with this audit, there are certain disclosures that are necessary pursuant to *Generally Accepted Government Auditing Standards*.

As required by various statutes within the California Government Code, County Auditor-Controllers or Directors of Finance is mandated to perform certain accounting, auditing, and financial reporting functions. These activities, in themselves, necessarily impair *Generally Accepted Government Auditing Standards*' independence standards. Specifically, "auditors should not audit their own work or provide non-audit services in situations where the amounts or services involved are significant/material to the subject matter of the audit."

Although the Director of Finance is statutorily obligated to maintain the accounts of departments, districts or funds that are held in the County Treasury, we believe that the following safeguard and division of responsibility exist. The staff that has the responsibility to perform audits within the Auditor-Controller Division has no other responsibility of the accounts and records being audited including the approval or posting of financial transactions that would therefore enable the reader of this report to rely on the information contained herein.

Based on our audit, DPS complied with applicable laws and regulations, the Benefit Plans Trust Documents, and the Agreement for the fiscal year ended June 30, 2019. However, we noted some deficiencies in internal controls in managing and overseeing of the Benefit Plans. See Attachment I, *Current Findings and Recommendations*, Attachment II, *Current Status of Prior Findings and Recommendations (457(b) Plan)*, and Attachment III, *Current Status of Prior Findings and Recommendations (401(a) Plan)*.

DPS's management responses to the findings identified during our engagement are described in Attachment I, *Current Findings and Recommendations*. We did not perform procedures to validate DPS's management responses to the findings and, accordingly, we do not express an opinion on the responses to the findings.

David Comerchero, Employee Benefits Manager/Plan Administrator
Department of Personnel Services
June 29, 2020

This report is intended solely for the information and use of the Sacramento County Board of Supervisors, those charged with governance, Sacramento County Executives, Sacramento County Audit Committee, and DPS's management, and should not be used for any other purpose. It is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

BEN LAMERA
DIRECTOR OF FINANCE



By: Hong Lun (Andy) Yu
Audit Manager

Enclosures:

Attachment I, *Current Findings and Recommendations*

Attachment II, *Current Status of Prior Findings and Recommendations (457(b) Plan)*

Attachment III, *Current Status of Prior Findings and Recommendations (401(a) Plan)*

County of Sacramento
Department of Personnel Services
457(b) and 401 (a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2018 through June 30, 2019

1. Outdated 457b Plan Trust Document

Condition

According to 457(b) Plan Trust Document, Article II, 2.1 “*An Eligible Employee or Elected Official who receives Compensation from the Employer and who desires to become a Participant in the Plan shall file a written election, in a manner established by the Administrator, with the Employer to defer a portion of the Compensation …… The election, if consented to by the Employer, shall become effective …… no earlier than the first day of the calendar month immediately following the month in which such election is made. With such consent, a Participation Agreement shall have been entered into between the Employer and the Eligible Employee or Elected Official.*” and per 2.2 “*…… No portion of Compensation received during a calendar month may be deferred unless a Participation Agreement for such deferral has been entered into and received by the Employer before the first day of the month in which the Compensation to be deferred is paid or made available.*”

However, based on inquiry to staff at Department of Personnel Services (DPS), this is not a current policy as eligible employees make elections directly at Fidelity website or by calling a Fidelity Agent.

Criteria

457(b) Plan Trust Document should reflect current policy related to 457(b) Plan.

Effect

Outdated 457(b) Plan Trust Document may create confusion and inconsistency in plan administration; therefore, potentially resulting in noncompliance with applicable laws and regulations.

Cause

According to DPS staff, this issue was overlooked during the most recent amendment of 457(b) plan trust document (amended and restated effective January 1, 2019).

Recommendation

We recommend DPS update 457(b) Plan Trust Document to reflect current policies and procedures.

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Management's Response

One of the terms of the Plan Document includes the delegation of authority provided to the Plan administrator which can include entering into agreements with participants to make salary deferrals. That Plan document section further provides that the County can delegate its administrative responsibilities to a third party administrator, vendor, service provider or another person or entity. By delegating to Fidelity the administrative function of collecting salary deferral agreements with eligible employees who want to participate in the Plan, it is understood that Fidelity is allowed to use their standard practice, which can be electronic web based or even by phone. However, we understand that the explicit language in Article II, 2.1 requiring a written election may be confusing, and will consider revising the Plan document through a future amendment.

2. Service Credit Purchase Rollover

Condition

During our testing of 20 participants for 457(b) fund rollover to Sacramento County Employees' Retirement System (SCERS) for purchase of service credit, we noted the following two exceptions:

- a. One incident that Distribution Request Form submitted to Fidelity was not signed and dated by authorized DPS personnel. This is a repeat finding from prior period report.
- b. One incident where a check issued to SCERS for a participant by Fidelity remained outstanding over 6 months when the check should have been voided as it was erroneously issued by Fidelity. After discovery of this issue during this audit, Fidelity made stop payment on this check and credit back to appropriate account of the participant.

Criteria

All necessary forms to process fund rollover/distribution should be signed and dated by authorized personnel. In addition, any outstanding checks issued to SCERS for purchase of service credit over normal deposit processing time should be investigated.

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Effect

Processing fund rollover/distribution without signature and date by authorized personnel may create opportunity for improper fund rollover/distribution. Also, the erroneous check issued and outstanding incorrectly reported the participant's account balance.

Cause

It appeared that these conditions were caused by management oversight and deficiency in internal controls.

Recommendation

We recommend that DPS management ensure all necessary forms are properly signed and dated prior to processing of fund rollover/distribution. We further recommend that DPS management establish and implement a written procedure requiring DPS staff to investigate any outstanding checks issued to SCERS for purchase of service credit over normal deposit processing time.

Management's Response

Finding (a): The document referenced above was a facsimile cover sheet, which is a standard Fax cover template, and second page consisting of a summary of the desired participant transaction. This Fax request is a redundant duplication of the information of the actual signed request, which is uploaded electronically to a Fidelity work request queue. DPS, Employee Benefits Office (EBO) must use the Fidelity Plan Sponsor Webstation (PSW) system to request all service purchases; the signed SCERS document was provided to Fidelity through the PSW system, as proof and authorization of the transaction. Since the Fax summary information is duplicative, EBO will discontinue this process immediately.

Finding (b): The funds were returned to the participation within one days from the County's request. However Fidelity erroneously returned them to the pre-tax account. As soon as the County became aware of the error, Fidelity was notified and completed the transaction per the County's instruction. EBO will implement a regular review of stale dated checks to ensure that Fidelity is following the appropriate cancellation procedures and ensuring timely credit processing of funds by Fidelity.

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3. Revenue Allowances and Recordkeeping Fees

Condition

Per Recordkeeping and Related Services Agreement between the County of Sacramento (County) and Fidelity (Agreement) for 457(b) and 401(a) Benefit Plans (Benefit Plans), Fidelity sends invoice to the County quarterly to charge recordkeeping fees and credit for revenue allowances. DPS staff obtained and reviewed the quarterly invoices from Fidelity but did not record the revenue allowances and recordkeeping fees in the Comprehensive Online Management Personnel and Accounting System for County of Sacramento general ledger system (COMPASS).

In addition, the revenue allowances were maintained in accounts under Fidelity's custody. The balances for these account at the Benefit Plan calendar year end (December 31, 2019) were \$1,061,238 for 457(b) Plan and \$58,099 for 401(a) Plan. According to DPS's management, these funds were excess revenue allowances from previous Agreement and maintained to cover DPS' costs for the Benefit Plans administration.

This is a repeat finding from prior period report.

Criteria

According to Government Code 27000, *“The county treasurer shall receive and keep safely all money belonging to the county and all other money directed by law to be paid to him and apply and pay it out, rendering the account as required by law.”*

In addition, per Sacramento County Charter, Article VIII, Sec. 39, *“Every county or township officer, board or commission, authorized to collect fees or money must pay into the county treasury all such fees or moneys collected by him or them, as the case may be, not later than seven (7) days following receipt thereof, …… Said officer, board or commission shall also file therewith a detailed statement of same in writing, a duplicate copy of which shall at the same time be filed with the Auditor, in such form as the Auditor may require.”*

Furthermore, the revenue allowances and recordkeeping fees for the Benefit Plans should be accounted for in COMPASS for sound financial planning, transparency and accountability.

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Effect

DPS is not in compliance with Government Code 27000 and Sacramento County Charter, Article VIII, Sec. 39 by not depositing revenue allowances and fees collected from participants to Sacramento County Treasury (Treasury). In addition, not recording revenue allowances and recordkeeping fees in COMPASS may result in material misstatement of the County's financial statement and affect the accuracy of cash flow projection.

Cause

It appeared that DPS is not familiar with legislative requirements in handling of public funds and did not have adequate internal control procedures in place to properly account for revenue allowances and recordkeeping fees in COMPASS.

Recommendation

We recommend DPS deposit revenue allowances and fees collected from participant to the Treasury and pay any fees related to the Benefit Plan out of Treasury account. We also recommend that DPS establish and implement internal control procedures to properly account for revenue allowances and recordkeeping fees in COMPASS.

Management's Response

EBO believes that under the fiduciary rules governing participant funds in benefit plans that are held in trust, those funds remain for the exclusive benefit of the participants. Those fees do not belong to the County, they belong to current active, terminated, and beneficiary accounts holders and should be used exclusively for the benefit of the plan participants. In addition, although the County is technically exempt from the Employee Retirement Income Security Act of 1974 (ERISA), it provides an important safe harbor of best practice, and ERISA Section 403(a) requires "all assets of an employee benefit plan be held in trust by one or more trustees;"

We believe the same explanation of exclusive use of these fiduciary funds applies as an explanation for why Sacramento County Charter, Article VIII, Sec. 39 would not apply. Clarity from Counsel may be necessary to resolve these differing interpretations.

However, even absent the determination of where the participant funds are kept, EBO is willing to record the revenue allowances and recordkeeping fees in the Comprehensive Online Management Personnel and Accounting System for County of Sacramento general ledger system (COMPASS), to the extent they may provide for sound financial planning, transparency

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and accountability, as long as the appropriate designations are made with respect to ownership of the funds (i.e. participants, not the County).

Finally, recent guidance on the requirements of Governmental Accounting Standards Board (GASB), Statement No. 84, which is specifically addressing this issue as it relates to 457 plans may require future adjustments.

4. Repeat Findings

Condition

We noted that current Findings #2 and 3 are repeat findings from the prior period reports. See Attachment II, *Current Status of Prior Findings and Recommendations - 457(b) Plan* and Attachment III, *Current Status of Prior Findings and Recommendations - 401(a) Plan*.

Criteria

Proper internal controls dictate that these findings be resolved in a timely manner.

Effect

Unresolved internal control deficiencies weakens the ability of DPS to administer the Benefit Plans properly and increases likelihood of errors and non-compliance with laws/regulations, internal policies/procedures, and agreement to occur and remain undetected.

Cause

See causes for Findings #2 and 3.

Recommendation

We recommend DPS implement all recommendations noted in this audit within 3 months after this audit is completed.

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Management's Response

EBO supports and understands the concerns expressed by our Internal Control partners and the recommended time frame.

Service Purchases:

We believe that the documents reviewed (unsigned fax summary sheet) were duplicative in nature and not the primary signed request. We believe we have established the necessary internal controls in place to ensure that Service Purchases are handled with the appropriate compliance and accuracy. In addition, we are immediately stopping the use of a duplicative fax request.

Revenue Allowances and Recordkeeping Fees:

EBO is willing to record the revenue allowances and recordkeeping fees in COMPASS, to the extent they may provide for sound financial planning, transparency and accountability, as long as the appropriate designations are made with respect to ownership of the funds (i.e. participants, not the County).

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Department of Personnel Services
457(b) Plan Performance Audit
Current Status of Prior Recommendations
For the Period July 1, 2018 through June 30, 2019

Report dated June 8, 2018 for the period of January 1, 2016 to December 31, 2016

1. Initial Contributions

Prior Recommendation

We recommended Department of Personnel Services (DPS) ensure the initial contributions occur in the following month the participants elected to defer their compensation if the participants did not elect to defer their compensation on or prior to the first day the participant performed any service for the County.

Current Status

It appears that the recommendation has been implemented.

2. Sacramento County Employees' Retirement System (SCERS) – Purchase of Service Credits

Prior Recommendation

We recommended DPS ensure forms are maintained and dates are inputted by participants and the Plan Administrator/Designee prior to remitting payment to SCERS. We also recommended purchase of service credits be authorized and remitted for participants that are active employees.

Current Status

It appeared that the recommendation has not been implemented. See Finding #2 of Attachment I, *Current Findings and Recommendations*.

We do not repeat our recommendation regarding authorization of service credit purchase request only for active employees. At the time of service credit purchase request, the participant's employment status was active and it is SCERS, not DPS who is approving the service purchase request based on the eligibility criteria. However, we recommend DPS notify SCERS if similar issues rise in the future.

3. Outside Retirement Plan Roll-In to County Deferred Compensation Plan

Prior Recommendation

We recommended DPS ensure the funds plan type of all transfers from outside retirement plans and the participants authorization of the transfers be documented to substantiate that the transfers were authorized and transferred from eligible plans by the participants.

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Current Status

Outside retirement plan roll-in to the County Deferred Compensation Plan is processed by the County's deferred compensation plan service provider, Fidelity Workplace Services, LLC, a Delaware limited liability company (Fidelity), not by DPS. Therefore, our recommendation is not repeated.

4. Automatic Restriction for Full-Time Participants

Prior Recommendation

We recommended Personnel Services submit a Service Request to Department of Technology (DTech) to have Comprehensive Online Management Personnel and Accounting System for County of Sacramento (COMPASS) automatically aggregate the different line item accounts on the remuneration statement to reflect the IRS regulations' limits each calendar year.

Current Status

It appears that the recommendation has been implemented.

DPS submitted Service Request (SR) #20892 to DTech and the SR has been implemented and closed on May 22, 2019. The solution did not include employees in more than one deferred compensation plan. However, DPS staff review wage report every pay period to mitigate this issue.

5. Special Section 457 Catch-Up

Prior Recommendation

We recommended DPS review IRS 457 Catch-Up Regulations, and create and implement policies and procedures for the special section 457 catch-up to detect any noncompliance with IRS regulations and the Deferred Compensation Plan trust documents.

Current Status

It appears that the recommendation has been implemented.

6. Workers Compensation and Deferral Amounts

Prior Recommendation

We recommended DPS staff create and implement policies and procedures to calculate deferral amounts based on net earned wages. We further recommended a second individual review, sign, and date indicating the calculations are correct prior to being recorded in COMPASS and transferred to Fidelity.

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Department of Personnel Services
457(b) Plan Performance Audit
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For the Period July 1, 2018 through June 30, 2019

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Current Status

It appears that the recommendation has been implemented.

7. Manual Changes

Prior Recommendation

We recommended DPS create and implement policies and procedures to calculate correcting entries for prior/current pay periods and have a second individual review, sign, and date indicating the correcting entries are correct prior to being recorded in COMPASS and transferred to Fidelity.

Current Status

It appears that the recommendation has been implemented.

8. Revenue Allowances and Recordkeeping Fees

Prior Recommendation

We recommended DPS obtain quarterly invoices from Fidelity detailing the quarterly revenue allowances and recordkeeping fees, review the invoices for accuracy and compliance with Fidelity's Trust Agreements, and record the revenue allowances and recordkeeping fees in COMPASS when received and paid, respectively, by the County.

Current Status

It appears that the recommendation has been partially implemented.

DPS obtained and reviewed the quarterly invoices from Fidelity; however, did not properly record the revenue allowances and recordkeeping fees in COMPASS. See Finding #3 of Attachment I, *Current Findings and Recommendations*.

9. Deferred Compensation Amounts

Prior Recommendation

We recommended DPS create and implement policies and procedures to provide the correct deferral amounts and obtain and maintain authorization from the participant for the new deferral amounts.

Current Status

It appears that the recommendation has been implemented.

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10. Automatic Restriction for Part-Time/Seasonal/Temporary (PST)

Prior Recommendation

We recommended DPS submit SR to DTech to update the maximum taxable earnings for Social Security per the Social Security Administration each year in COMPASS in order to automatically restrict the correct PST employee and employer contribution limits in COMPASS.

Current Status

It appears that the recommendation has been implemented.

11. Repeat Findings

Prior Recommendation

We recommended DPS implement all repeated recommendations.

Current Status

It appears that the recommendation has been partially implemented.

Our recommendation for Prior Findings #2 and 8 have not been fully implemented. See Findings #2, 3 and 4 of Attachment I, *Current Findings and Recommendations*.

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Department of Personnel Services
401(a) Plan Performance Audit
Current Status of Prior Recommendations
For the Period July 1, 2018 through June 30, 2019

Report dated June 8, 2018 for the period of January 1, 2016 to December 31, 2016

1. Initial Contributions

Prior Recommendation

We recommended Department of Personnel Services (DPS) ensure the initial contributions occur in the following month the participants elected to defer their compensation if the participants did not elect to defer their compensation on or prior to the first day the participant performed any service for the County of Sacramento (County). In addition, the County 401(a) Plan match should only occur when the participant meets the one percent contribution requirement to 457(b) Plan starting from when the participant was eligible for the County 401(a) Plan match.

Current Status

It appears that the recommendation has been implemented.

2. Payee Support

Prior Recommendation

We recommended DPS ensure the County's deferred compensation plan service provider, Fidelity Workplace Services, LLC, a Delaware limited liability company (Fidelity) maintain support that the participant authorized the change to a payee other than the participant.

Current Status

Changes to payees are processed by Fidelity, not by DPS. Therefore, we do not repeat the recommendation.

3. Workers Compensation and Deferral Amounts

Prior Recommendation

We recommended DPS staff create and implement policies and procedures to calculate deferral amounts based on net earned wages. We further recommended a second individual review, sign, and date indicating the calculations are correct prior to being recorded in Comprehensive Online Management Personnel and Accounting System for County of Sacramento (COMPASS) and transferred to Fidelity.

Current Status

It appears that the recommendation has been implemented.

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Department of Personnel Services
401(a) Plan Compliance
Agreed Upon Procedures
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Report dated June 8, 2018 for the period of January 1, 2016 to December 31, 2016

4. **Revenue Allowances and Recordkeeping Fees**

Prior Recommendation

We recommended DPS obtain quarterly invoices from Fidelity detailing the quarterly revenue allowances and recordkeeping fees, review the invoices for accuracy and compliance with Fidelity's Trust Agreements, and record the revenue allowances and recordkeeping fees in COMPASS.

Current Status

It appears that the recommendation has been partially implemented.

DPS obtained and reviewed the quarterly invoices from Fidelity; however, did not properly record the revenue allowances and recordkeeping fees in COMPASS. See Finding #3 of Attachment I, *Current Findings and Recommendations*.

5. **Repeat Findings**

Prior Recommendation

We recommended DPS implement all repeat recommendations.

Current Status

It appears that the recommendation has been partially implemented.

Our recommendation for Prior Finding #4 have not been fully implemented. See Finding #3 of Attachment I, *Current Findings and Recommendations*.